

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**I.A. No. 2363 of 2021**

**In**

**W.P.(C) No. 1791 of 2021**

1.Prakash Munjal.

2.Harish Munjal.

3.Ritual Munjal.

..... Petitioners

**Versus**

1. State of Jharkhand through its Secretary, Revenue, Land Reforms and Registration, at Project Bhawan, Dhurva, Ranchi.

2. The Presiding Officer-cum-Hon'ble Minister, Revenue, Registration and Land Reforms Department, Government of Jharkhand, Ranchi.

3. Deputy Commissioner, Ranchi.

4. Sanjay Pahan

..... Respondents

**CORAM: HON'BLE MR. JUSTICE DEEPAK ROSHAN**

For the Petitioner s : Mr. A.K.Sinha, Sr. Advocate  
Mr. Prashant Pallav, Advocate  
Mr. Parth Jalan, Advocate

For the Respondents : Mr. Rajiv Ranjan, Advocate General

**03/Dated: 21<sup>st</sup> May, 2021**

Heard through V.C.

**I.A. No.2363 of 2021.**

**2.** The instant interlocutory application has been preferred for grant of stay to the operation of the order dated 17.02.2021 passed by the Presiding Officer-cum-Hon'ble Minister, Revenue Registration and Land Reforms Department, Government of Jharkhand in Misc. Case No. 267 of 2020.

**3.** Mr. A.K.Sinha, learned senior counsel for the petitioner submits that the petitioners are the lawful owners of the entire land in question and their names were duly mutated in the revenue records. As a matter of fact, earlier five SAR cases were filed. One of such SAR case

being SAR Case No. 185/1990-91 filed by one Sukra Pahan claiming himself to be Son-in-law of recorded tenant was challenged before this Court by the father of the Petitioner no.1 in C.W.J.C. No. 2321 of 1991 and this Court while allowing the said writ application held that application under 49(5) of the CNT Act, is maintainable only within 12 years from the date of permission and the said order was upheld in L.P.A.

Learned senior counsel further submits that the impugned order dated 17.02.2021 is total arbitrary, illegal and against the provisions of law. Relying upon the aforesaid contentions Mr. Sinha submits that this interlocutory application for stay of the impugned order is necessary, inasmuch as, the balance of convenience is in favor of the petitioners and if this impugned order is not stayed, the petitioner will suffer irreparable loss and injury.

**4.** Mr. Rajiv Ranjan, learned Advocate General appearing for the respondent-State submits that this is a case of fraudulent transfer of a tribal land on the basis of transferred document created in the year 1959. He further submits that the purchaser being an influential person applied for mutation only after more than 40 years. The State Govt. even got a spot inquiry conducted through DC and videography was also done which threw light that the writ petitioner/purchaser is not in possession over the

land and that the land is still under the possession of the Somra Pahan / his son Sanjay Pahan, however some portion of the land was under encroachment of other different persons. He lastly submits that fraud vitiates everything and it has been proved that the present owners of land have committed fraud and he seeks six weeks time to file a detailed counter-affidavit.

**5.** Looking to the facts and circumstances of this case and after going through the statements made in this interlocutory application and the rival contention of the parties; counter-affidavit in this case is necessary as such learned Advocate General is directed to file counter-affidavit.

**6.** It also appears from record that several litigations were earlier filed and disposed of with respect to land in question and in C.W.J.C. No. 2321 of 1991 this Court held that application under 49(5) of the CNT Act, is maintainable only within 12 years from the date of permission and the said order was upheld in L.P.A. Thus, *prima facie* it appears that the balance of convenience is in favor of the petitioners and if this impugned order is not stayed, the petitioners will suffer irreparable loss and injury, as such, the operation, implementation and execution of the order dated 17.02.2021 passed by the Presiding Officer-cum-Hon'ble Minister, Revenue Registration and Land Reforms

Department, Government of Jharkhand in Misc. Case No. 267 of 2020 shall remain stayed during pendency of this application.

**7.** With the aforesaid direction, this interlocutory application being I.A. No. 2363 of 2021 stands disposed of.

**W.P.(C) No. 1791 of 2021.**

**8.** Respondent State is directed to file counter-affidavit within a period of six weeks. The petitioner may file rejoinder to the counter-affidavit, if any so advised.

**9.** Since nobody is representing on behalf of respondent No.4; as such, notice be issued to the respondent No.4 under registered cover with A/D as well as by ordinary process for which requisites etc. shall be filed within 2 weeks.

**10.** Put up this case after service of Notice.

**(Deepak Roshan, J.)**

Amardeep/